

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHRISTINA M.I. KELTON,	:	Case No. C-1-02-345
	:	
Plaintiff,	:	Judge Weber
	:	
v.	:	
	:	
UNIVERSITY OF CINCINNATI, et al.,	:	DEFENDANTS' NOTICE OF
	:	<u>SUPPLEMENTAL AUTHORITY</u>
Defendants.	:	

Defendants respectfully notify the Court of the following recent decisions. In Mattson v. Caterpillar, Inc., 359 F.3d 885 (7th Cir. 2004), the court ruled that the plaintiff's retaliation claim should be dismissed because the plaintiff did not engage in protected activity, as his allegations of discrimination were baseless. Id. at 891. The court also held that the same standard applies to retaliation claims under both the opposition and participation clauses and noted that this ruling was consistent with the Sixth Circuit's decision in Johnson v. University of Cincinnati, 215 F.3d 561 (6th Cir. 2000). Id. This decision is relevant to the argument raised at pages 24 and 25 of the University's motion for summary judgment.

In Stavropoulos v. Firestone, 361 F.3d 610 (11th Cir. 2004), the court found that the plaintiff had not suffered an adverse action. The court rejected the plaintiff's assertion that "sending her a memo criticizing her for filing a report with the dean's office on Dr. LeBlanc's candidacy for the computer artist position, creating the file of [negative] letters [about plaintiff], and encouraging faculty members with negative things to say about Stavropoulos to interview

with the third-year committee [which was evaluating plaintiff's progress towards tenure]" were adverse actions. Id. at 620-21. The court also rejected the assertion that reading to the faculty a memorandum stating that the plaintiff had a mental illness was an adverse action. Id. at 621. The court further held that negative performance ratings and a faculty vote to terminate the plaintiff (which was subsequently overridden) were not adverse actions. Id. at 617. This decision is relevant to the argument raised at pages 25-27 of the University's motion for summary judgment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2004, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:
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s/ Doreen Canton

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